



GAIL FARBER, Director

COUNTY OF LOS ANGELES

DEPARTMENT OF PUBLIC WORKS

"To Enrich Lives Through Effective and Caring Service"

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BOARD OF SUPERVISORS
COUNTY OF LOS ANGELES
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February 3, 2011

IN REPLY PLEASE

REFER TO FILE: AS-0
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TO: Each Supervisor

FROM: Gail Farber *Gail Farber*
Director of Public Works

**BOARD MEETING OF JANUARY 4, 2011
PUBLIC COMMENT REVIEW AND RESPONSE
ELEMENTARY SCHOOL ENVIRONMENTAL EDUCATION PROGRAM (2009-AN002)**

We have reviewed the transcript of Mr. Paul Hahn who represented the Wildlife Learning Center and addressed the Board during the Public Comment Session on January 4, 2011. The Wildlife Learning Center (WLC) made numerous assertions; the Department of Public Works responses are indicated below.

1. Mr. Hahn is requesting the Board to initiate a County Review Panel for the Environmental Education Request for Proposal (2009-AN002).

We notified all responsive Proposers over the phone on the morning of December 27, 2010, that the Request for Proposal (RFP) would be rejected/canceled. On January 12, 2011, a letter was sent to all Proposers and all attendees of the Proposers' Conference informing them that it is in the best interest of the County to reject any and all proposals. Due to the rejection of the RFP, Public Works cannot continue with the protest process; therefore, we cannot request a County Review Panel be convened in accordance with Board Policy 5.055, Services Contract Protest Policy. In the RFP, Part I, Section 3 indicates that the right is reserved to reject any or all proposals that, in the judgment of the Board or Director, are not in the best interests of the County/Public Works/Special Districts.

2. Mr. Hahn submitted a Contractor Selection Review Protest (Protest) to this RFP on July 19, 2010, and asserted that he has received no response to date. He also asserted that a written decision of the Protest shall be provided within a reasonable time, and he has received no substantive information in the last 172 days.

Although Public Works did not provide a final response to WLC's Protest due to the rejection of all proposals, we have been in contact with Mr. Hahn of WLC on a periodic basis. Below is a brief chronology showing the progress of the WLC Protest to cancellation.

- 06/28/10 – Notice of Intent to Request a Proposed Contractor Selection Review submitted to Public Works with a request for a copy of The Rogers Group's (highest-rated Proposer) evaluation documents and proposal.
- 07/08/10 – Public Works sent WLC a copy of the highest-rated Proposer's evaluation documents and proposal.
- 07/19/10 – WLC submitted a Protest containing a 23-page protest document outlining its concerns regarding Public Works' evaluation of the proposals.
- 07/20/10 through 12/22/10 - Public Works worked with County Counsel to review and respond to WLC's 23-page protest document, which listed 54 separate assertions with multiple allegations per assertion. During this time, Public Works provided updates to Mr. Hahn regarding the status.
- 12/23/10 – At the end of the Protest review, Public Works and County Counsel identified areas that could be enhanced and improved in the solicitation document and discussed rejection of all proposals.
- 12/27/10 – Public Works called all responsive Proposers in the morning, including Mr. Hahn, to inform them that we decided to reject/cancel all proposals.
- 01/12/11 – Public Works e-mailed a Rejection of Proposals letter to all vendors who attended the Proposers' Conference, including all Proposers.

3. Mr. Hahn asserted that the selected incumbent Contractor submitted a nonresponsive and "grossly deficient" proposal.

The Rogers Group was the last Contractor for this service. Service expired in April 2009; therefore, there is no incumbent Contractor for this service. All Proposers must pass an initial review to ensure all of the minimum requirements are met before moving on to the evaluation process. The proposal submitted by The Rogers Group met all of the minimum requirements and was found to be responsive, which made the proposal eligible to be evaluated. The evaluators reviewed the proposal in accordance with Board Policy 5.054, Evaluation Methodology for Proposals, utilizing the informed averaging methodology and found them to be the highest-rated Proposer.

4. **Mr. Hahn asserted that several of the evaluators showed a clear bias toward the incumbent Contractor, and some of the initial scores were changed to their favor.**

Upon review of the Protest submitted by WLC and after conducting an in-depth analysis of the evaluation documents, Public Works, in conjunction with County Counsel, determined that there was no evidence of any bias amongst any of the evaluators for or against any of the Proposers. Changes in the scores were made in compliance with Board Policy 5.054.

5. **Mr. Hahn asserted that "an unbiased evaluation by a County Review Panel will clearly show that this was not simply a matter of evaluators' subjectivity...we asked that a County Review Board reevaluate the need to cancel this procurement and consider simply negotiating any changes with the winner of the current proposal or the RFP."**

In conformance with Board Policy 5.055, Public Works cannot continue with the protest process due to the rejection of the RFP; therefore, we cannot request to convene a County Review Panel. The contracting department is the entity who can request to convene a County Review Panel; the role of the County Review Panel is to review the allegations of the Protest and decide whether any errors were made by the contracting department during the evaluation process. The County Review Panel does not independently reevaluate proposals, recommend award of a contract to a particular Proposer, change the winning proposer, reverse the decision of the department to cancel an RFP, or negotiate any changes with the winning proposer.

6. **Mr. Hahn asserted that Public Works circumvented the protest process by canceling the RFP.**

Public Works did not circumvent the protest process by canceling the RFP. As a result of the Protest review, Public Works identified areas that could be enhanced and improved in the solicitation document, which will be reflected in the future RFP, including clarifications to the scope of work and the introduction of price as an evaluation category, which will allow for the Local Small Business Enterprise preference. As a result, on January 12, 2011, a letter was sent to all Proposers and all attendees of the Proposers' Conference informing them that it is in the best interest of the County to reject any and all proposals as provided in the RFP, Part I, Section 3.

7. **Mr. Hahn asserted that reprourement would give the incumbent Contractor a second chance to submit a responsive proposal.**

All vendors will have an equal opportunity to submit a proposal in response to the new RFP.

8. **Mr. Hahn asserted that a resolicitation of this RFP would be unfair to their small business, as they spent nearly \$100,000 on the initial effort.**

The decision to respond to an RFP is at the discretion of any business. The RFP clearly indicated this risk in Part I, Section 3, which states that the County will not be liable for any costs incurred in connection with the preparation of the proposal.

9. **Mr. Hahn asserted that he did not receive the requested copies of evaluation documents.**

Public Works sent WLC the highest-rated Proposer's proposal and evaluation documents on July 8, 2010. WLC also requested the evaluation documents for its own proposal; however, in compliance with Board Policy 5.055, Public Works was unable to release the requested documents until a County Review Panel was scheduled. As a result of the cancellation of this RFP and at the direction of County Counsel, WLC's evaluation documents were sent to Mr. Hahn on January 25, 2011.

Public Works is currently preparing a resolicitation of this service, which will be released in the near future. Public Works will inform WLC when the RFP is released to the public so they may respond to the solicitation if they are interested. All vendors will have an opportunity to submit a new proposal.

If you have any questions regarding this matter, please call me or your staff may contact Ghayane Zakarian of our Administrative Services Division at (626) 458-4078.

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cc: Chief Executive Office (Rita Robinson)
County Counsel
Executive Office